

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES ACT OF 1933**  
**Release No. 9789 / May 21, 2015**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 75021 / May 21, 2015**

**INVESTMENT ADVISERS ACT OF 1940**  
**Release No. 4094 / May 21, 2015**

**INVESTMENT COMPANY ACT OF 1940**  
**Release No. 31643 / May 21, 2015**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-16554**

**In the Matter of**

**GRAY FINANCIAL GROUP, INC.,  
LAURENCE O. GRAY, AND  
ROBERT C. HUBBARD, IV,**

**Respondents.**

**ORDER INSTITUTING  
ADMINISTRATIVE AND CEASE-  
AND-DESIST PROCEEDINGS  
PURSUANT TO SECTION 8A OF  
THE SECURITIES ACT OF 1933,  
SECTION 21C OF THE  
SECURITIES EXCHANGE ACT OF  
1934, SECTIONS 203(e), 203(f) AND  
203(k) OF THE INVESTMENT  
ADVISERS ACT OF 1940, AND  
SECTION 9(b) OF THE  
INVESTMENT COMPANY ACT OF  
1940**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”), Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), Sections 203(e), 203(f), and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”), and Section 9(b) of the Investment Company Act of 1940 (“Investment Company Act”) against Respondent Gray Financial Group, Inc. (“Gray Financial”), Respondent Laurence O. Gray (“Gray”), and Respondent Robert C. Hubbard, IV (“Hubbard”) (collectively “Respondents”).

## II.

After an investigation, the Division of Enforcement alleges that:

### A. SUMMARY

1. These proceedings arise out of violations of the anti-fraud provisions of the federal securities laws by Gray Financial Group Inc., an Atlanta-based registered investment adviser, and two of its senior officers in connection with a fiduciary duty breach related to their unsuitable recommendation of Gray Financial's proprietary fund of funds to several Georgia-based public pension clients.

2. In July 2012, the State of Georgia allowed, for the first time, most of its public pension plans to invest in alternative investments. However, such investments were subject to certain specific restrictions as to investment size and timing.

3. Between July 2012 and August 2013, Gray Financial, its founder Laurence O. Gray, and current co-CEO Robert C. Hubbard, IV, recommended, offered and sold investments in GrayCo Alternative Partners II, LP ("GrayCo Alt. II"), to four Georgia public pension clients, despite the fact that they knew, were reckless in not knowing, or should have known that these investments did not comply with the restrictions on alternative investments imposed by Georgia law.

4. Additionally, in October 2012, when recommending GrayCo Alt. II to one of these clients, Gray Financial and Gray made specific material misrepresentations concerning the investment's compliance with the Georgia law and the number and identity of prior investors in the fund.

### B. RESPONDENTS

5. Gray Financial Group, Inc., doing business as Gray & Company, is an Atlanta, Georgia-based investment adviser that has been registered with the Commission since 1998. It primarily provides consulting services to pension and profit sharing plans, endowments, and other entities. According to its annual amendment to its Form ADV, filed with the Commission on March 31, 2015, it has 28 non-discretionary accounts with approximately \$5.6 billion in plan assets and 18 discretionary accounts with approximately \$933 million in assets under management. Gray Financial also created and advised (through a division of Gray Financial) two alternative investment fund of funds, GrayCo Alternative Partners I, LP ("GrayCo Alt. I") and GrayCo Alt. II.

6. Laurence O. Gray, age 53, is a resident of Atlanta, Georgia. Since its founding, he has been President and, until July 2013, he has served as Chief Executive Officer of Gray Financial. According to Gray Financial's Form ADV, Gray also has at least a 75% ownership interest in Gray Financial. At various prior times, though not during the relevant period, Gray has been associated with broker-dealers.

7. Robert C. Hubbard, IV, age 40, is a resident of Mableton, Georgia. He has been employed by Gray Financial since August 2006 in various senior positions. Prior to Gray Financial, he was employed by Washtenaw County, Michigan from 2000 to 2006 in various positions, including, Retirement Administrator and Strategic Operations Manager. He was Chief Operating Officer of Gray Financial from October 2009 until July 2013, when he became co-CEO, a position he currently holds.

**C. OTHER RELEVANT ENTITIES**

8. GrayCo Alternative Partners II, LP is a private fund of funds organized in Delaware. It filed a Form D with the Commission on December 20, 2012. GrayCo Investment Management II, LLC is its general partner and GrayCo Global Advisors is its manager. Gray and Hubbard are both members of GrayCo Alt. II's executive committee.

**D. FACTS**

Background

9. Since at least 2006, Gray Financial, Gray and Hubbard have provided investment advice and consulting services to public and private pension funds nationwide, including a number of Atlanta, Georgia-area public pension plans.

10. Among other clients, Gray Financial served as pension consultant to: (a) the City of Atlanta Firefighters' Pension Fund ("Atlanta Firefighters' Pension"); (b) the City of Atlanta General Employees' Pension Fund ("Atlanta General Pension"); (c) the City of Atlanta Police Officers' Pension Fund ("Atlanta Police Pension"); and (d) the MARTA/ATU Local 732 Employees Retirement Plan ("MARTA/ATU Retirement") (all plans cumulatively, "the Georgia-based public pension clients").

11. Beginning in 2011, Gray and Hubbard expanded Gray Financial's business to include originating, managing and advising alternative investment fund of funds.

12. In 2012, the State of Georgia enacted a law that authorized eligible large Georgia public pension and retirement systems to invest in alternative investments for the first time, subject to certain limitations and restrictions (the bill was entitled the "Employees' Retirement System of Georgia Enhanced Investment Authority Act" and is codified as Official Code of Georgia Annotated (O.C.G.A.) § 47-20-87, hereinafter, the "Georgia Investment Act"). For example, any single Georgia-based public pension's investment in alternative investments "shall not exceed in any case 20 percent of the aggregate amount of: (1) the capital to be invested in the applicable private pool, including all parallel pools and other related investment vehicles established as part of the investment program of the applicable private pool; . . . ." The Georgia Investment Act also requires that "[e]ach alternative investment by an eligible large retirement system shall have previously been or shall be concurrently made or committed to be made by at least four other investors not affiliated with the issuer." Finally, the law provides that "[a]lternative

investments shall only be made in private pools and issuers that have at least \$100 million in assets, including committed capital, at the time the investment is initially made or committed to be made” by a Georgia-based public pension.

Respondents Fraudulently Recommended and Sold Investments in GrayCo Alt. II to Public Pensions

13. By early to mid-2012, Gray and Hubbard, with knowledge of the Georgia Investment Act, conceived and created Gray Financial’s second fund of funds, GrayCo Alt. II, an alternative investments-based fund of funds.

14. Gray was largely responsible for marketing GrayCo Alt II to public pension clients. Hubbard was largely responsible for arranging the drafting of the offering and subscription documents, providing the investment documents containing proposed investors’ names to Gray, and tracking the date and amount of the ultimate investments in the GrayCo Alt. II.

15. By no later than July 2012 and throughout the fall 2012, Gray Financial and Gray began to recommend GrayCo Alt. II to their Georgia-based public pension clients. At their formal Board meetings, Gray recommended that Atlanta General Pension and MARTA/ATU Retirement invest in GrayCo Alt. II and recommended that the Boards of Atlanta Firefighters’ Pension and Atlanta Police Pension authorize their Chairs to execute the necessary paperwork for the alternative investments.

16. Gray Financial’s Georgia-based public pension clients, based upon Gray Financial’s recommendation, invested in GrayCo Alt. II, as follows (table includes initial required investment of the general partner, a Gray Financial affiliate):

Investor	Investment Date	Amount	Investor’s Percentage of Total Fund Assets (As of 12/31/2012)
<b>Atlanta Firefighters Pension</b>	10/20/2012	\$15 million	19.2%
<b>Atlanta Police Pension</b>	10/22/2012	\$21 million	26.9%
<b>Atlanta General Pension</b>	11/7/2012	\$28 million	35.9%
<b>MARTA/ATU Retirement</b>	11/30/2012	\$13 million	16.7%
<b>General Partner (Gray Financial affiliate)</b>		\$1 million	1.3%
<b>Total</b>		<b>\$78 million</b>	

17. By recommending and selling these investments, Gray Financial and Gray breached their fiduciary duty to their advisory clients.

18. The investments were unsuitable for the Georgia-based public pension clients because, as sold, the investments violated the Georgia Investment Act. Specifically, GrayCo Alt. II never met the \$100 million requirement at the time of the investment of any of Gray Financial's Georgia-based public pension clients, or at any subsequent time. The fund only raised \$78 million initially, and at no time to date exceeded \$100 million.

19. Furthermore, two of the Georgia-based public pension clients invested an amount greater than 20% of the capital invested in GrayCo Alt. II. Both the Atlanta Police Pension (26.9%) and the Atlanta General Pension (35.9%) investments exceeded the 20% statutory ceiling of investment in GrayCo Alt. II (based upon the initial investment of \$78 million).

20. Finally, each of the four Georgia-based public pension clients' investments even if considered concurrent, would fall outside the statutory requirement that four non-issuer affiliated investors exist prior to the investment by a Georgia public pension.

#### Gray Financial and Gray Made Material Misrepresentations

21. In a meeting of the Board of Trustees of the Atlanta General Pension on November 7, 2012, Gray Financial and Gray, in recommending an investment in GrayCo Alt. II, made two specific material misrepresentations.

22. First, Gray told the Board that the Atlanta General Pension's then-proposed investment in GrayCo Alt. II was consistent with Georgia law. When asked by an Atlanta General Pension trustee prior to voting if the proposed \$28 million alternative investment that Gray Financial was recommending was "consistent with the law," Gray responded that it "absolutely" was and that "the only reason you can do this now is because of the change in the law."

23. Gray knew, was reckless in not knowing, or should have known his claim was false, as the three relevant limitations of the Georgia Investment Act were not met at that time. Specifically, (a) Atlanta General Pension's \$28 million investment was and still is greater than 20% of the capital to be invested in GrayCo Alt. II; (b) there were not four other investors not affiliated with Gray Financial that had previously been invested or concurrently invested or committed to invest; and (c) GrayCo Alt. II did not have at least \$100 million in assets, including committed capital, at the time Atlanta General Pension's investment was initially made or committed to be made.

24. Second, Gray falsely stated that certain other public pension clients had already invested in the GrayCo Alt. II. Prior to the conclusion of the November 7, 2012 meeting, a vote was called on whether to authorize a \$28 million investment in GrayCo Alt. II. During the course of the vote, a trustee asked Gray who else had invested in the fund. In response, Gray referenced, among a few others, four pension plans, three of which never invested in the fund and one of which did not invest until three weeks later. Specifically, in response to the trustee questions, Gray stated that "MARTA is already

done” and that “Michigan, New York, Chicago, those plans are already executed, as well.” Gray had no reasonable basis to claim that MARTA/ATU Retirement was “done”, because its board did not even vote to invest or execute its subscription agreement until November 30, 2012, more than three weeks after Atlanta General Pension’s investment. Moreover, there have never been any investors in GrayCo Alt. II from Michigan, New York, or Chicago.

#### Gray Financial Profits Due to the Fraudulent Investments

25. Through December 31, 2014, Gray Financial’s four Georgia public pension clients have paid fees totaling over an estimated \$1.7 million since their original investments in November 2012.

### **E. VIOLATIONS**

26. As a result of the conduct described above, Gray Financial and Gray willfully violated Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in the offer and sale of securities and in connection with the purchase or sale of securities. Hubbard willfully violated Sections 17(a)(1) and (3) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5(a) and (c) thereunder. Alternatively, Hubbard willfully aided, abetted, and caused Gray Financial and Gray’s violations of Sections 17(a)(1) and (3) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5(a) and (c) thereunder.

27. As a result of the conduct described above, Gray Financial and Gray willfully violated Sections 206(1), 206(2) and 206(4) of the Advisers Act, which prohibit fraudulent conduct by an investment adviser, and Rule 206(4)-8 promulgated thereunder, which prohibits fraudulent conduct by advisers to “pooled investment vehicles” with respect to investors or prospective investors in those pools. Hubbard willfully aided, abetted, and caused Gray Financial and Gray’s violations of Sections 206(1), 206(2), and 206(4) and Rule 206(4)-8(a)(2) thereunder of the Advisers Act.

### **III.**

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative and cease-and-desist proceedings be instituted to determine:

A. Whether the allegations set forth in Section II hereof are true and, in connection therewith, to afford Respondents an opportunity to establish any defenses to such allegations;

B. What, if any, remedial action is appropriate in the public interest against Gray Financial pursuant to Section 203(e) of the Advisers Act including, but not limited to, disgorgement and civil penalties pursuant to Section 203 of the Advisers Act;

C. What, if any, remedial action is appropriate in the public interest against Gray and Hubbard pursuant to Section 203(f) of the Advisers Act including, but not limited to, disgorgement and civil penalties pursuant to Section 203 of the Advisers Act;

D. What, if any, remedial action is appropriate in the public interest against Respondents pursuant to Section 9(b) of the Investment Company Act including, but not limited to, disgorgement and civil penalties pursuant to Section 9 of the Investment Company Act; and

E. Whether, pursuant to Section 8A of the Securities Act, Section 21C of the Exchange Act and Section 203(k) of the Advisers Act, Respondents should be ordered to cease and desist from committing or causing violations of and any future violations of Sections 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and Sections 206(1), 206(2), and 206(4) of the Advisers Act, and Rule 206(4)-8 thereunder, whether Respondents should be ordered to pay a civil penalty pursuant to Section 8A(g) of the Securities Act, Section 21B(a) of the Exchange Act, and Section 203(i) of the Advisers Act, and whether Respondents should be ordered to pay disgorgement pursuant to Section 8A(e) of the Securities Act, Sections 21B(e) and 21C(e) of the Exchange Act, and Section 203 of the Advisers Act.

#### IV.

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened not earlier than 30 days and not later than 60 days from service of this Order at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that Respondents shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If Respondents fail to file the directed answer, or fail to appear at a hearing after being duly notified, the Respondents may be deemed in default and the proceedings may be determined against him upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f) and 201.310.

This Order shall be served forthwith upon Respondents as provided for in the Commission's Rules of Practice.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 300 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Brent J. Fields  
Secretary